G.R., G.D., No. 2408, dated 22-6-22.]

Correspondence

DOCKET SHEET

Subject :—

File No. R-141

_____ DEPT.

_____ BRANCH.

References :—

Date.	To whom sent.	Notes and instructions.

Copy of a letter No. XXXI(Pol-48) dated the 26th June, 1949, from the Government of India, Ministry of Rehabilitation, New Delhi.

Sub:- Payment of money due to evacuees by Govt. of and quasi Govt. bodies.

I am to invite a reference to Ministry of Rehabilitation Govt. of India, Secret letter No. 2873/49-N of 29-7-1949, on the above subject, wherein it was requested that no payments should be made direct to the evacuee pending further instructions.

2. In this connection, it is pointed out that moneys due to evacuees by Government or quasi Government Bodies are evacuee property under the law on the subject and as such vest in the Custodians. You are, therefore, requested to deposit all moneys due to evacuees with the Custodians.

3. This letter is being issued with the concurrence of the Ministry of Rehabilitation, Government of India, Hence, their letters Nos. II(22)/48-N&I dated the 30-12-48 and 2873/49-N of 29.7.49. on the above subject should be considered as cancelled.

4. Receipt of this letter may kindly acknowledged.

No.R.141/25280-B
Rehabilitation department,
Bombay Castle, 12th July 1950,
(Bombay 1.).

Forwarded with compliments in continuation of Government confidential Endorsement, Rehabilitation Department, No.R.141-19890-B, dated the 5th August 1949, for information and guidance to:-

The Commissioners of Divisions,
The Custodian of Evacuee Property, Bombay,
The Additional Custodian of Evacuee Property, Bombay,
The Deputy Custodian of Evacuee Property, Bombay,
All other Collectors and Deputy Custodians of Evacuee Property,
All Departments of the Secretariat,
All other Heads of Departments and Heads of Offices, under the several departments of the Secretariat,
The Accountant General, Bombay,
The Prothonotary and Senior Master, High Court, Bombay,
The Registrar High Court, Appelate side, Bombay,
The Secretary to His Excellency the Governor,
The Secretary to The Hon'ble The Chief Minister,

2. The Local Self Government and Public Health Department and the Education Department are requested to issue suitable instructions to the local bodies etc. under them.

By order of the Governor of Bombay,
Sd/-
(D.R.PINGE)
ASSISTANT SECRETARY TO THE GOVERNMENT OF BOMBAY
REHABILITATION DEPARTMENT.

By letter.

S.11/5

Copy of a Memorandum No. 142/Cus/50 dated the 10/13th June 1950 from the Govt. of India, Ministry of Rehabilitation, NEW DELHI.

Subject:- Lists of Central and State Govt. Employees Pensioners etc., who opted for service in Pakistan or otherwise migrated to that country and the properties left by them in India.

The under signed is directed to invite a reference to the Ministry of Home Affairs Confidential Office Memorandum No.126/49-D.G.S.(APpts) dated the 7th February, 1950, and an extract thereon the subject cited above (copy enclosed for reference), and to state that the matter has since further been examined by this Ministry, in consultation with the Custodian General of Evacuee Property, New Delhi, who feels that the information so far made available in reply to the Ministry of Home Affairs, Office Memorandum referred to above, has in most cases not been enough to be of real help to the Custodian of Evacuee Property in India, So far as the discovery of Evacuee Property is concerned.

2. It is therefore, felt that to safeguard the interests of evacuees and to enforce the provisions of the law on the subject, the Ministry of Home Affairs, etc., may in so far as they are concerned, kindly supply the information in respect of the Government servants and servants of local bodies etc., which have opted for or have otherwise migrated to Pakistan in the proforma attached. This proforma may be completed as far as possible and forwarded direct to the Custodians of Evacuee Property of the State within which the property or the home of the evacuees is situated, with a copy to the Custodian General of Evacuee Property, Bikaner House, New Delhi, who will issue necessary instructions about the lines, on which the information may be utilised by the Custodians of Evacuee Property in India.

3. The receipt of this office memorandum may kindly be acknowledged.

Confidential. NO.R.~~Secretariat~~

No. R.141/34200-B.
Rehabilitation Department.
Bombay Castle, 28th June 1950
Bombay No.1.

Forwarded to all Departments of the Secretariat (except Separate Department) with a request to submit the lists of Government Employees, Pensioners etc. who opted for service in Pakistan or otherwise migrated to that country and the properties left by them in India directly to the Custodian of Evacuee Property, Yatcht Club, Appollo Bunder, Bombay.. A copy of the report should also be submitted to the Custodian General of Evacuee Property, Government of India, Ministry of Rehabilitation, Bikaner House, New Delhi.

By order of the Governor of Bombay,
Sd/- D.R.Pinge.
Assistant Secretary to the Govt. of Bombay, R.D.

Copy to the Custodian of Evacuee Property, Bombay, for information and guidance.

HSS.
11/5

CONFIDENTIAL

THE ADMINISTRATION OF EVACUEE PROPERTY ACT, 1950
Transfer and sale of property under-

GOVERNMENT OF BOMBAY.
Rehabilitation department.
Circular-Memorandum No.R;141/B
Bombay Castle, 2nd June 1950,
Bombay No.1.

It has been laid down in paragraph 2 of Rehabilitation Department Circular Memorandum, No.R.141/B, dated the 8th December 1949 that when any Muslims present documents for registration, they should be asked to approach the Deputy Custodian of Evacuee Propert concerned for obtaining a certificate provided in Section 39 of the Administration of Evacuee Property Ordinance, 1949. On further Examination of sections 38 and 39 of the Ordinance, (Now sections 40 and 41 of the Administration of Evacuee Property Act, 1950) it appea that while it will be possible for a Deputy Custodian to certify on a reference to his registers to his registers whether a particular person is or is not intending evacuee and also whether a particular property is or is not evacuee property, it will not be possible for him to say whetherthe transferor in any particular transfer is or is not likely to become an evacuee in future. The application of Section 40 of thenew Act will be attracted even h when the transferor, having no intention of evacuating from India at the time of the transfer, becomes an evacuee in the very remote future possibly under circumstances which none could foresee at the time the transfer took place. In respect of a transfer by a person who is not alleged to be an intending evacuee and in a case of transfer of property which is not alleged to be evacuee property, the Custodian cannot give a certificate on the strength of which the registering officer may proceed to register the deed. According to Section 40 of the new Act, confirmation will be necessary in respect of properties which are notified or declared to be evacuee property and in such cases, if the transaction has been confirmed, no certificate of the Custodian would be necessary. Although Section 41 contemplates a certificate by the Custodian that he has given his no previous

approval to the transfer, the ordinance contains no substantive provision for a Custodian giving such approval, nor does it provide that a transfer made with the previous approval of the Custodian shall be valid and shall not attract the application of section 40 if the transferor is either an evacuee, or subsequent to the transfer, becomes an evacuee or his property is notified or declared to be evacuee property at a later date.

In view of the diffficultues referred to above, the registering officers and the Custodian Officers should follow the following procedure.

i) A Registering Officer should refuse to register a deed of transfer where he has any information that either the transferor is an intending evacuee or the property sought to be transferred is evacuee property. In such a case he should decline to egister the deed of transfer unless the party presenting the deed for registration is able to produce a certificate from the Custodian that the transferor is not an intending evacuee or that the property sought to be transferred isnot evacuee property.

ii) Where the Registering Officer has no reason to suspect that either the transferor is an intending evacuee or the property the sought to be transferred is evacuee property, he should simply warn the transferee that he runs the risk of the property transferred being taken over as evacuee propertym if subsequent to the transfer the transferor is either discovered to be or becomes an evacuee and his property is notified as evacuee property. If in spite of this warning the transferree chooses to have the deed registered, he should not refuse to register it. He may, however, if he chooses, note in the endorsement under Section 60 of the Registration Act the fact of having given the warning to the transferee.

iii) Where the registration of any deed of transfer has been refused by a Registering Officer on the ground of his having information that the transferor is an intending evacuee, or that the property sought to be transferred is evacuee property, the Custodian on an application being made to him, may certify, after a rereference

a reference to his records, whether the transferor is or is not an intending evacuee and whether the property sought to be transferred is or is not evacuee property.

Except in a case where the Registering Officer has Refused to register a deed or transfer on one of the two grounds mentioned in the ~~xxx~~ preceding clauses, the Deputy Custodian shoul d not grant any certificate.

It should be noted that even where a Custodian has purported to give his previous approval to a contemplated transfer or has granted a certificate to the effect that he has given such approval, the operation of sub-section (1) of Section 40, is not eliminated, if, subsequent to the transfer, the transferor is either discovered to be an evacuee or becomes an evacuee or his property is notified or declared to be evacuee property at a later date. In that event the transfer shall be ineffective to pass any title unless it has been confirmed on an application made under Section 40(2) in spite of any previous approval given thereto by the Custodian.

By order of the Governor of Bombay,

Sd/-

(D.R.PINGE)

Assistant Secretary to the Government of Bombay
REHABILITATION DEPARTMENT.

To

The Commissioners of Divisions,
the Inspector General of Registeration
The Custodian of Evacuee Property, Bombay,
The Additional Custodian of Evacuee Property, Bombay,
All District Registrars,
All Deputy Custodians of Evacuee Property,
The Revenue Department-

RSS.
11/5

CONFIDENTIAL:-

No. CEP/MISC/84-A,
Office of the Custodian of Evacuee Property,
Mercantile Bank Building,(4th floor),
Flora Fountain, Bombay-1.
Dated the 18th September, 1950

To

Rehabilitation Department, Bombay.

b:- Indo-Pakistan Agreement June,1950, on moveable property of evacuees, Implementation of ----

In continuation of this office letter of even number dated the 21st August, 1950, on the subject mentioned above, following instructions on the points arising from the instructions to impliment the Indo-Pakistan Agreement on moveable property may be adhered to until further orders.

1) Moveables already siezed as evacuee property should not be directly released to the evacuee owners pending further instruction

2) Claims against evacuee property registered or pending with th Custodian (including income-tax arrears) are not to be set off for the present against funds on account of moveables in the hands of the Custodian. As regards sale proceeds of moveables payable to the Evacuee under the recent agreement, the gross amount recovered and th charges incurred (e.g. storage, administration etc.) should be seperately shown in the statements under compilation.

3) Shares, securities and debentures in the safe custody of Banks and similar institutions against which there are no claims may may be allowed to be released to the owners. Banks accounts in the name of firms, however, are not to be released until further orders and may be allowed to remain as they are. The recent agreement does not apply also to compensation payable to Evacuees on account of Reserve Bank of India shares.

4) The share of an evacuee partner in the profits of a business does not come within the meaning of sale-proceeds of moveables. The non-evacuee partners should be called upon to deposit with the Custodian the share of the evacuee partner or partners.

5) Under the provisions of the Agreement, a running concern declared as evacuee property can be allowed to be managed by a displaced person subject to suitable guarantees being given by him till such time as the evacuee owner exercises his right under the Agreement. Closed down businesses may also be reopened and dealt with in similar manner.

6) Moveable property of evacuees may continue to be notified, though possession thereof is not to be taken.

-Sd/-
for Custodian of Evacuee Property, Bombay.

IES.
11/5

NO.II (163-A)/50-I.D.G. SECRET
Government of India
Ministry of Rehabilitation,

New Delhi, dated the 11th Sept.50

To

All State Govts. (except West Bengal Assam, Manipur, Tripura and Jammu and Kashmir States).

2. All Custodians of Evacuee Property.

Sub:- Indo-Pakistan Moveable Agreement of June 1950 - Implementation Instructions Nos 5 and 7 forwarded under this Ministry's Nos.II(163-J)/50-I.D.C. and II(163-F)/50-I.D.C. dated 2/8/50 respectively.

Sir,

I am directed to draw your attention to the Implementation Instructions mentioned above and to state that it has been provided therein that accounts should be rendered to the diplomatic representative of the other country and moveable property and sale proceeds should be paid to him. With a view to keeping the Custodian General informed of developments, it has been decided that copies of lists of property and statements of amounts payable to ~~him~~ the diplomatic representative of the other country shouldfirst be shown to the Custodian General. The Actual transmission to the diplomatic representative of the other country may be made after the Custodian General has checked up the lists and given his approval.

Yours faithfully,
Sd/-
(D.R.Kolhii)
Officer on Special Duty (N)

Copy in continuation of endorsements referred to above for information to:-

(1) Custodian General of Evacuee Property Delhi,
2) Ministry of E.A., Govt. of India, New Delhi,
3) Ministry of States, Govt.of India, New Delhi,
4) Ministry of Finance, (Rev.Div.), regarding implementation Instruction No. 6 only.

Sd/-
Officer on Special Duty.

S.NO.13/1951
Class : A.D.

No. A.D.290,
Poona, 12th February 1951.

CONFIDENTIAL.

C I R C U L A R

In continuation of this office circular Endorsement No.A.D.-290 dated 23-8-1950, all Registering Officers are informed that in the case of absentee transferres of documents falling under paragraph 2(ii) of Rehabilitation Department Confidential Circular Memorandum No.R.141-B dated the 2-6-1950, a written reply from the parties to the notices of warning need not be insisted upon and that documents should be registered according to paragraph 2(ii) of the Rehabilitation Department Circular dated 2-6-1950, after watting for a reply within a reasonable period ~~if~~ or after lapse of the period for reply if mentioned in the notice.

2. Pending previous cases may be reviewed in the light of these orders.

(O.C.signed by I.G.R.
on 8-2-51).

Sd/-(M.S.Vidwans)
For Inspector General of Registration,
State of Bombay, Poona.

Copy to:

All District Registrars, with compliments,
(with spare copies for Sub-Registrars
the Sub-Registrar, Bombay, with compliments,
the Manager, Government Photo Registry, Poona,
with compliments.
all Inspectors of Registration.
all Collectors with compliments.

Forwarded for information, guidance and compliance to the Sub-Registrar of_____

Copy . .....

.....

Copy forwarded with compliments to the secretary to Government, Rehabilitation Department, with reference to No.R.141/735-B dated 1-2-1951 addressed to the Manager, Bombay Provincial Co-operative Land Mortgage Bank Ltd., Bombay, and copy endorsed to the Inspector General of Registration, State of Bombay, Poona.

Sd/- (B.K. Pandya)
Inspector General of Registration
State of Bombay, Poona.